




IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: John Michael Boushy, et al.
Application No. : 09/777,817 ✓
Filed : February 25, 2001
For : National Customer Recognition
System And Method
Group Art Unit : 3714
Examiner : M. A. Sager
Attorney Docket No. : 19538-05688US

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SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT
Under 37 CFR §§ 1.56 and 1.97-98

NON-CONFIDENTIAL DOCUMENTS

Applicants submit the following to provide the Office with information regarding litigation involving patents related to the present application.

The present application is a continuation of U.S. Patent application 653,436, filed May 24, 1996, now U.S. Patent Number 5,761,647 (the '647 patent). The '647 patent, and related U.S. Patent Number 6,003,013 (the '013 patent) and U.S. Patent Number 6,183,362 (the '362 patent), are currently the subject of litigation. This litigation is *Harrah's Entertainment, Inc. and Harrah's Operating Co., Inc. v. Station Casinos*,

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[HARS 056289-311]

- Form 10-Q, Securities and Exchange Commission, “Capital Gaming International, Inc.,” period ending March 31, 1995 (05/11/95) [HARS 056312-48]
- Form 10-K, Securities and Exchange Commission, “Capital Gaming International, Inc.,” fiscal year end June 30, 1994 (09/07/94) [HARS 056349-491]
- Form 10-K, Securities and Exchange Commission, “Capital Gaming International, Inc.,” fiscal year end June 30, 1995 (09/29/95) [HARS 056597-845]
- Form 10-Q, Securities and Exchange Commission, “Hemmeter Enterprises Inc.,” period ending March 31, 1996 [HARS 056925-55]
- Form 10-K, Securities and Exchange Commission, “Capital Gaming International, Inc.,” fiscal year end June 30, 1996 [HARS 056990-57118]
- Amended Complaint for Patent Infringement, *Harrah’s Entertainment, Inc., and Harrah’s Operating Company, Inc. v. Station Casinos, Inc., et al.*, No. CV-S-01-0825-KJD-RJJ, United States District Court, District of Nevada (03/21/02)
- Amended Answer and Counterclaim, *Harrah’s Entertainment, Inc., and Harrah’s Operating Company, Inc. v. Station Casinos, Inc., et al.*, No. CV-S-01-0825-KJD-RJJ, United States District Court, District of Nevada (04/22/02)
- Harrah’s Entertainment, Inc.’s and Harrah’s Operating Company, Inc.’s Reply to Defendants’ Amended Answer and Counterclaim, *Harrah’s Entertainment, Inc., and Harrah’s Operating Company, Inc. v. Station Casinos, Inc., et al.*, No. CV-S-01-0825-KJD-RJJ, United States District Court, District of Nevada (05/29/02)
- Order Granting Defendants’ Motion For Partial Summary Judgment Of Invalidity Under 35 U.S.C. § 112, *Harrah’s Entertainment, Inc., and Harrah’s Operating Company, Inc. v. Station Casinos, Inc., et al.*, No. CV-S-01-0825-KJD-RJJ, United States District Court, District of Nevada (05/19/04)
- Order Denying Defendants’ Motion For Partial Summary Judgment Of Patent Unenforceability Due to Inequitable Conduct, *Harrah’s Entertainment, Inc., and Harrah’s Operating Company, Inc. v. Station Casinos, Inc., et al.*, No. CV-S-01-0825-KJD-RJJ, United States District Court, District of Nevada (05/19/04)

Synopsis of Defendants' Summary Adjudication Motions

The allegations made by defendants in the summary adjudication motions are as follows:

1. Claims 1-26 of the '647 patent, claims 1-2 of the '362 patent, and claims 1-2, 7-10, and 49 of the '013 patent are alleged to be anticipated by: (1) a CDS Oasis II system as allegedly installed at Circus Circus/Slots-A-Fun in Las Vegas, NV, and Grand Casinos in Gulfport and Biloxi, MS, and as allegedly offered for sale to Stations Casinos; (2) a Gaming Systems International system as allegedly installed at the River City riverboat casinos in New Orleans, LA; and (3) an EDT/IGT SMART system, as allegedly installed at the Oneida Indian Casino in Oneida, WS, the Primm Casinos in Primm Valley, NV, and as allegedly offered for sale to Station Casinos.

2. Claims 1-26 of the '647 patent, claims 1-2 of the '362 patent, and claims 1-2, 7-10, and 49 of the '013 patent are alleged to be obvious in light of a combination of the EDT Celebrity Circle system as allegedly installed at Harrah's Casinos in Reno and Lake Tahoe, NV, with either Harrah's Northern Nevada marketing system or Interim Patron Database marketing system.

3. The '647, 362, and '013 patents are alleged to be unenforceable for inequitable conduct based on an alleged failure to disclose the Harrah's Northern Nevada Marketing System, Harrah's Interim Patron Database, Harrah's Automated Pit Player Tracking System, EDT's Celebrity Circle system, and EDT/IGT's Standard and SMART player tracking systems. The district court denied this motion on May 11, 2004.

4. The claims of the '647, 362, and '013 patents are alleged to be unenforceable for inequitable conduct for allegedly misrepresenting the operation of Harrah's prior Gold Card system as described in the article "Harrah's Casinos Introduces Two 'First' [sic] for the Casino Industry," PR Newswire, August 23, 1993. The district court denied this motion on May 11, 2004.

5. The claims of the '647, 362, and '013 patents are alleged to be invalid under 35 U.S.C. § 112 ¶¶ 1 and 2, on the grounds that the claim term "theoretical win profile" is allegedly indefinite and unsupported by an adequate written description,

and on the grounds that the applicant allegedly concealed the best mode for calculating the theoretical win profile. The district court denied defendants' motions as to best mode, but granted defendants' motion as to indefiniteness and written description. Both parties are currently appealing the district court's findings.


It is respectfully requested that these documents be (1) fully considered by the Patent and Trademark Office during the examination of this application; and (2) printed on any patent that may issue on this application. Applicants request that a copy of the above-listed references as considered and initialed by the Examiner, be returned with the next communication. Consideration of the listed references and favorable action are solicited.

This Supplemental Information Disclosure Statement is being filed:

- ☒ after three months of the filing date of this national application or the date of entry of the national stage in an international application, or after the mailing date of the first official action on the merits, whichever event last occurred, but before the mailing date of the first to occur of either: (1) a final action under 37 CFR §1.113; or (2) an action that otherwise closes prosecution in the application, and:
- ☒ attached hereto is the fee set forth under 37 CFR §1.17(p) for submission of this Information Disclosure Statement under 37 CFR. § 1.97(c)

Respectfully submitted,
JOHN M. BOUSHY *et al.*

Dated: October 21, 2004

By: 
Daniel R. Brownstone, Reg. No. 46,581
Attorney for Applicants
Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041
Tel.: (415) 875-2358
Fax: (650) 938-5200

Inc., et al., U.S. District Court for the District of Nevada, Case No. CV-S-01-0825-DAE-RJJ.

In the litigation, the defendants have contended that the '647, '362, and '013 patents are invalid and unenforceable, and have filed motions for summary adjudication in the litigation challenging the validity and enforceability of the '647, '362, and '013 patents. On May 11, 2004, the district court denied defendants' motions that the claims of the '647, '362, and '013 patent are unenforceable or invalid for failure to comply with the best mode requirement, but granted defendants' motion that the claims of the '647, '362, and '013 patents that include the term "theoretical win profile" are invalid as indefinite and for failing to comply with the written description requirement. Both parties are currently appealing the district court's findings.

Documents That Are The Subject Of Summary Adjudication Motions

Defendants' motions rely upon documents produced during discovery by the plaintiffs, the defendants, and various third-parties. Some of these documents have been designated by the producing party as confidential information pursuant to the terms of a protective order precluding any disclosure or use of the documents for purposes other than the litigation. Documents relied upon by the defendants in their motions that are not designated pursuant to the protective order are listed below. A synopsis of the allegations made by the defendants in the motions follows the list of documents.

Should the Office determine that it has a need for further information on the litigation, Applicants stand ready to assist the Office in satisfying this need.

Non-Confidential Documents:

- F. Legato, "The complete package, Slot and table accounting, player tracking — Gaming Systems International has the solutions, complete and on-line," Casino Journal, p.93 (October 1995) [SC 027890]
- Gaming Systems Int'l, "Gaming Management Solutions" brochure [GC 003886-89]